

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 358

FINAL READING

Introduced by Pahls, 31.

Read first time January 16, 2009

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to the Comprehensive Health Insurance Pool Act;
2 to amend sections 44-4201, 44-4226, and 44-4227, Reissue
3 Revised Statutes of Nebraska, and sections 44-4221 and
4 44-4222, Revised Statutes Cumulative Supplement, 2008; to
5 change provisions relating to eligibility under the act,
6 unfair trade practices, major medical expense coverage,
7 and premium and standard risk rates; to provide duties
8 for the board of directors of the pool; to harmonize
9 provisions; and to repeal the original sections.

10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 44-4201, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 44-4201 Sections 44-4201 to 44-4235 and sections 2, 3,
4 and 6 of this act shall be known and may be cited as the
5 Comprehensive Health Insurance Pool Act.

6 Sec. 2. Following the close of each calendar year, the
7 board shall conduct a review of the operation of the pool and
8 report to the director the board's recommendations for cost savings
9 in the operation of the pool.

10 Sec. 3. (1) (a) In addition to the requirements of section
11 2 of this act, following the close of each calendar year, the board
12 shall conduct a review of health care provider reimbursement rates
13 for benefits payable under pool coverage for covered services. The
14 board shall report to the director the results of the review within
15 thirty days after the completion of the review.

16 (b) The review required by this section shall include
17 a determination of whether (i) health care provider reimbursement
18 rates for benefits payable under pool coverage for covered services
19 are in excess of reasonable amounts and (ii) cost savings in the
20 operation of the pool could be achieved by establishing the level
21 of health care provider reimbursement rates for benefits payable
22 under pool coverage for covered services as a multiplier of an
23 objective standard.

24 (c) In the determination pursuant to subdivision
25 (1) (b) (i) of this section, the board shall consider:

1 (i) The success of any efforts by the administering
2 insurer to negotiate reduced health care provider reimbursement
3 rates for benefits payable under pool coverage for covered services
4 on a voluntary basis;

5 (ii) The effect of health care provider reimbursement
6 rates for benefits payable under pool coverage for covered services
7 on the number and geographic distribution of health care providers
8 providing covered services to covered individuals;

9 (iii) The administrative cost of implementing a level of
10 health care provider reimbursement rates for benefits payable under
11 pool coverage for covered services; and

12 (iv) A filing by the administering insurer which shows
13 the difference, if any, between the aggregate amounts set for
14 health care provider reimbursement rates for benefits payable under
15 pool coverage for covered services by existing contracts between
16 the administering insurer and health care providers and the amounts
17 generally charged to reimburse health care providers prevailing
18 in the commercial market. No such filing shall require the
19 administering insurer to disclose proprietary information regarding
20 health care provider reimbursement rates for specific covered
21 services under pool coverage.

22 (d) If the board determines that cost savings in the
23 operation of the pool could be achieved, the board shall set forth
24 specific findings supporting the determination and may establish
25 the level of health care provider reimbursement rates for benefits

1 payable under pool coverage for covered services as a multiplier of
2 an objective standard.

3 (2) A health care provider who provides covered services
4 to a covered individual under pool coverage and requests payment
5 is deemed to have agreed to reimbursement according to the health
6 care provider reimbursement rates for benefits payable under pool
7 coverage for covered services established pursuant to this section.
8 Any reimbursement paid to a health care provider for providing
9 covered services to a covered person under pool coverage is limited
10 to the lesser of billed charges or the health care provider
11 reimbursement rates for benefits payable under pool coverage for
12 covered services established pursuant to this section. A health
13 care provider shall not collect or attempt to collect from a
14 covered individual any money owed to the health care provider
15 by the pool. A health care provider shall not have any recourse
16 against a covered individual for any covered services under pool
17 coverage in excess of the copayment, coinsurance, or deductible
18 amounts specified in the pool coverage. Nothing in this section
19 shall prohibit a health care provider from billing a covered
20 individual under pool coverage for services which are not covered
21 services under pool coverage.

22 Sec. 4. Section 44-4221, Revised Statutes Cumulative
23 Supplement, 2008, is amended to read:

24 44-4221 (1) To be eligible to purchase health insurance
25 ~~coverage from the pool,~~ pool coverage, an individual shall:

1 (a) Be a resident of the state for a period of at least
2 six months and shall be an individual:

3 (i) Who is not eligible for coverage under a group
4 health plan comparable to pool coverage, medicare by reason of age,
5 or medical assistance pursuant to the Medical Assistance Act or
6 section 43-522, or any successor program, and who does not have any
7 other health insurance coverage comparable to pool coverage;

8 (ii) Who, if such individual was offered the option of
9 continuation coverage under COBRA or under a similar program, both
10 elected such continuation coverage and exhausted such continuation
11 coverage; and

12 ~~(i)~~ Have (iii) (A) Who has received, within six months
13 prior to application to the pool, a rejection in writing, for
14 reasons of health, from an insurer for health insurance coverage
15 comparable to pool coverage;

16 ~~(i)~~ ~~Currently have,~~ (B) Who currently has, or have has
17 been offered within six months prior to application to the pool,
18 health insurance coverage comparable to pool coverage by an insurer
19 which includes a restrictive rider which limits health insurance
20 coverage for a preexisting medical condition; or

21 ~~(i)~~ Have (C) Who has been refused health insurance
22 coverage comparable to the pool coverage, or have has been offered
23 such health insurance coverage at a rate exceeding the premium rate
24 for pool coverage, within six months prior to application to the
25 pool;

1 (b) Be a resident of the state for any length of time and
2 be an individual:

3 (i) For whom, as of the date the individual seeks pool
4 coverage under this section, the aggregate of the periods of
5 creditable coverage is eighteen or more months and whose most
6 recent prior creditable coverage was under a group health plan,
7 governmental plan, or church plan;

8 (ii) Who is not eligible for coverage under a group
9 health plan, medicare, or medical assistance pursuant to the
10 Medical Assistance Act or section 43-522, or any successor program,
11 and who does not have any other health insurance coverage;

12 (iii) With respect to whom the most recent prior
13 creditable coverage was not terminated for factors relating to
14 nonpayment of premiums or fraud; and

15 ~~(iv)-(A)~~ (iv) Who, if such individual was offered the
16 option of continuation coverage under COBRA or under a similar
17 program, both elected such continuation coverage and exhausted such
18 continuation coverage; or, ~~or (B)~~ who had been offered the option
19 of continuation coverage under COBRA or under a similar program at
20 a premium rate higher than that available from the pool; ~~or~~

21 (c) Be a resident of the state for any length of time and
22 be a qualified trade adjustment assistance eligible individual.

23 (2) The board may adopt and promulgate a list of medical
24 or health conditions for which an individual would be eligible
25 for pool coverage without applying for health insurance coverage

1 pursuant to subdivision (1)(a) of this section. Individuals who
2 can demonstrate the existence or history of any medical or health
3 conditions on the list adopted and promulgated by the board shall
4 be eligible to apply directly to the pool for ~~health insurance~~ pool
5 coverage.

6 Sec. 5. Section 44-4222, Revised Statutes Cumulative
7 Supplement, 2008, is amended to read:

8 44-4222 (1) An individual shall not be eligible for
9 initial or continued pool coverage if:

10 (a) He or she is eligible for medicare benefits by reason
11 of age or medical assistance established pursuant to the Medical
12 Assistance Act;

13 (b) He or she is a resident or inmate of a correctional
14 facility, except that this subdivision shall not apply if such
15 individual is eligible for pool coverage under subdivision (1)(b)
16 of section 44-4221;

17 (c) He or she has terminated pool coverage unless twelve
18 months have elapsed since such termination, except that this
19 subdivision shall not apply if such individual has received and
20 become ineligible for medical assistance pursuant to the Medical
21 Assistance Act during the immediately preceding twelve months, if
22 such individual is eligible for pool coverage under subdivision
23 (1)(b) of section 44-4221, or if such individual is eligible for
24 waiver of any waiting period or preexisting condition exclusions
25 pursuant to section 44-4228;

1 (d) The pool has paid out one million dollars in claims
2 for the individual; ~~or~~

3 (e) He or she is no longer a resident of Nebraska; or-

4 (f) The premium for his or her pool coverage is paid for
5 by a person other than the following:

6 (i) The individual;

7 (ii) An individual related to the individual by blood,
8 marriage, or adoption; or

9 (iii) An entity operating under the federal Ryan White
10 HIV/AIDS Treatment Modernization Act of 2006, Public Law 109-415,
11 as such act existed on the effective date of this act.

12 (2) Pool coverage shall terminate for any individual on
13 the date the individual becomes ineligible under subsection (1) of
14 this section.

15 Sec. 6. (1) No insurer, agent, broker, or third-party
16 administrator shall refer an individual employee to the pool or
17 arrange for an individual employee to apply for pool coverage
18 for the purpose of separating that individual employee from
19 group health insurance coverage in connection with the individual
20 employee's employment.

21 (2) Any violation of this section shall be an unfair
22 trade practice in the business of insurance subject to the Unfair
23 Insurance Trade Practices Act.

24 Sec. 7. Section 44-4226, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 44-4226 (1) The pool shall offer major medical expense
2 coverage to every eligible individual. The pool coverage, its
3 schedule of benefits, and exclusions and other limitations
4 shall be established through rules and regulations adopted and
5 promulgated by the director taking into consideration the advice
6 and recommendations of the members.

7 (2) In establishing the pool coverage, the director
8 shall take into consideration the levels of individual health
9 insurance coverage provided in the state and such medical economic
10 factors as may be deemed appropriate and shall determine benefit
11 levels, deductibles, coinsurance and stop-loss factors, exclusions,
12 and limitations determined to be generally reflective of and
13 commensurate with individual health insurance coverage provided by
14 the ~~five~~ ten insurers writing the largest amount of individual
15 health insurance coverage in the state.

16 (3) Pool coverage established under this section shall
17 provide both an appropriate high and low deductible to be
18 selected by the pool applicant. The deductibles and coinsurance
19 and stop-loss factors may be adjusted annually according to the
20 medical component of the Consumer Price Index.

21 Sec. 8. Section 44-4227, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 44-4227 ~~(1)~~ Rates (1) (a) For calendar years prior to
24 January 1, 2010, rates and rate schedules may be adjusted for
25 appropriate risk factors such as age, sex, and area variation

1 in claim costs in accordance with established actuarial and
2 underwriting practices. Special rates shall be provided for
3 children under eighteen years of age.

4 ~~(2)~~ The (b) For calendar years prior to January 1,
5 2010, the pool, with the assistance of an independent actuary,
6 shall determine the standard risk rate by calculating the average
7 individual rate charged by the five insurers writing the largest
8 amount of individual health insurance coverage in the state
9 actuarially adjusted to be comparable with the pool coverage,
10 except that such five insurers shall not include any insurer
11 which has not been writing individual health insurance coverage
12 in this state in at least the three preceding calendar years.
13 The selection of the independent actuary shall be subject to
14 the approval of the director. In the event five insurers do
15 not offer comparable coverage, the standard risk rate shall be
16 established using reasonable actuarial techniques and shall reflect
17 anticipated risk experience and expenses for such coverage. The
18 annual premium rate established for pool coverage shall be one
19 hundred thirty-five percent of rates established as applicable for
20 individual standard risks, except that the annual premium rate
21 established for pool coverage for children under eighteen years
22 of age shall be sixty-seven and five-tenths percent of rates
23 established as applicable for individual standard risks.

24 (2) (a) For calendar years beginning on and after January
25 1, 2010, rates and rate schedules may be adjusted for appropriate

1 risk factors such as age, sex, and area variation in claim costs in
2 accordance with established actuarial and underwriting practices.

3 (b) (i) For calendar years beginning on and after January
4 1, 2010, the pool, with the assistance of an independent actuary,
5 shall determine the standard risk rate by calculating the average
6 individual rate charged by the ten insurers writing the largest
7 amount of individual health insurance coverage in the state
8 actuarially adjusted to be comparable with the pool coverage,
9 except that such ten insurers shall not include any insurer
10 which has not been writing individual health insurance coverage
11 in this state in at least the three preceding calendar years.
12 The selection of the independent actuary shall be subject to the
13 approval of the director. In the event ten insurers do not offer
14 comparable coverage, the standard risk rate shall be established
15 using reasonable actuarial techniques and shall reflect anticipated
16 risk experience and expenses for such coverage.

17 (ii) (A) The annual premium rate established for pool
18 coverage for calendar year 2010 (I) shall be one hundred forty
19 percent of rates established as applicable for individual standard
20 risks or (II) shall be the rates established as applicable for
21 individual standard risks for the previous calendar year adjusted
22 by a trend factor reflecting medical economic factors as the board
23 deems appropriate, whichever is greater.

24 (B) The annual premium rate established for pool coverage
25 for calendar year 2011 (I) shall be one hundred forty-five percent

1 of rates established as applicable for individual standard risks or
2 (II) shall be the rates established as applicable for individual
3 standard risks for the previous calendar year adjusted by a trend
4 factor reflecting medical economic factors as the board deems
5 appropriate, whichever is greater.

6 (C) The annual premium rate established for pool coverage
7 for calendar year 2012 and each calendar year thereafter (I) shall
8 be one hundred fifty percent of rates established as applicable for
9 individual standard risks or (II) shall be the rates established as
10 applicable for individual standard risks for the previous calendar
11 year adjusted by a trend factor reflecting medical economic factors
12 as the board deems appropriate, whichever is greater.

13 (3) The board shall not adjust or increase pool rates
14 more than one time during any calendar year. All rates and rate
15 schedules shall be submitted to the director for approval. The
16 director shall hold a public hearing pursuant to the Administrative
17 Procedure Act prior to approving an adjustment to or increase in
18 pool rates.

19 Sec. 9. Original sections 44-4201, 44-4226, and 44-4227,
20 Reissue Revised Statutes of Nebraska, and sections 44-4221
21 and 44-4222, Revised Statutes Cumulative Supplement, 2008, are
22 repealed.